

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FLAMINGO LLC,

Plaintiff,

**NO. 11-CV-04862  
(CM)(JCF)**

- against -

WENDY'S OLD FASHIONED HAMBURGERS  
OF NEW YORK, INC., Successor -In-  
Interest to Wenco Food Systems Corp.,  
26 E. 23rd Street  
New York, New York 10010,

Defendant.

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**NOTICE OF CROSS-MOTION**

PLEASE TAKE NOTICE that, upon the accompanying Statement of Undisputed Facts Pursuant to Local Rule 56.1 in Support of the Cross-Motion for Summary Judgment of Plaintiff, Flamingo LLC, dated May 25, 2012, the accompanying affidavit of Abe Shrem sworn to on the 25th day of May 2012, and the exhibits thereto, and the accompanying Memorandum of Law in Opposition to Defendant Wendy's Old Fashioned Hamburgers of New York, Inc. ("Wendy's") Motion for Summary Judgment and in Support of Plaintiff Flamingo LLC's Cross-Motion for Summary Judgment, and the exhibits annexed thereto, and any other submissions that shall be made in support of this motion, Flamingo, by and through its undersigned counsel, Wolfe & Yukelson PLLC, hereby moves this Court, before the Hon. Colleen McMahon, United States District Court Judge, United States District Court, Southern District of New York, 500 Pearl Street, New York, New York 10007, at such date and time as the Court shall determine, for an Order denying Defendant Wendy's Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure and for an affirmative order granting Plaintiff Flamingo's Motion for Summary Judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure awarding plaintiff damages in the sum of \$2 million, together reasonable attorney's fees and such other and further

relief as this Court may deem just and proper.

Dated: Port Washington, New York  
May 25, 2012

/s/ Bruce Yukelson  
*byukelson@wolfeyukelson.com*  
WOLFE & YUKELSON PLLC  
14 Vanderventer Avenue  
Suite 101  
Port Washington, NY 11050  
(516) 767-7100

Attorneys for Plaintiff  
Flamingo LLC